



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

EDWIN E JOHNSTONE MD
2323 SOUTH SHEPHERD SUITE 908
HOUSTON TX 77019

Respondent Name

FIDELITY & GUARANTY INSURANCE

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-12-0054-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary dated August 30, 2011: "Gallagher Bassett did not even pay what is usual and customary let alone the up charge for such and extensive time consuming report."

Requestor's Position Summary dated October 3, 2011: "The response from the attorney suggests that the charges are not usual and customary but we do the same IME's, RME's and Psychiatric Evaluations day in and day out, 99% take 2 hours 'face to face' time, the charges and codes are usually the same. In this case and a few others now and again require extra time. The doctor should be paid for his time and composition."

Amount in Dispute: \$375.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Code 99354 relates to the first hour of additional contact and code 99355 relates to one additional half hour beyond that. The Medicare Manual states that the start and end times of the visit shall be documented in the medical records along with the date of service. Dr. Johnstone's report as well as the HCFA submitted do not appropriately document the amount of face to face time Dr. Johnstone spent with the Claimant and Gallagher Bassett correctly denied payment for these services."

Response Submitted by: Ricky D. Green, 9600 Escarpment Blvd, Ste. 745-52, Austin, TX 78749

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 13, 2011	CPT codes 99354 and 99355	\$375.00	\$279.79

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated July 28, 2011

- B1 (B12)-Services not documented in patient's medical records.

Explanation of benefits dated August 22, 2011

- B1 (B12)-Services not documented in patient's medical records.

Issues

1. Does the documentation support billed services?
2. Is the requestor entitled to reimbursement?

Findings

1. The requestor billed CPT code 99354 and 99355 on the disputed service. The respondent denied reimbursement based upon reason code "B1 (B12)-Services not documented in patient's medical records".
CPT code 99354 is defined as "Prolonged service in the office or other outpatient setting requiring direct patient contact beyond the usual service; first hour (List separately in addition to code for office or other outpatient Evaluation and Management service)."
CPT code 99355 is defined as "Prolonged service in the office or other outpatient setting requiring direct patient contact beyond the usual service; each additional 30 minutes (List separately in addition to code for prolonged service)."
The Psychiatric report indicates that "[Claimant] arrived at the office more than 30 minutes before we opened...He spoke in an overly quiet voice for about 30 minutes...He remained comfortably seated for more than two hours without a break. He maintained his composure through the whole encounter." The Division finds that the requestor has documented and supported the billed service, reimbursement is recommended.
2. Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.
(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77109, which is located in Harris County.

The MAR for CPT code 99354 in Harris County is \$154.79. The respondent paid \$0.00; therefore, the requestor is due \$154.79.

The MAR for CPT code 9935 in Harris County is \$153.17. The respondent paid \$0.00; the requestor is seeking dispute resolution for \$125.00; therefore, the requestor is due \$125.00.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation support additional reimbursement sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$279.79.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$279.79 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	5/18/2012 Date
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YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.